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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

Montana Democratic Party,
Montanans for Tester, Macee
Patritti,

Plaintiffs,

v.

Christi Jacobsen, in her official
capacity as Montana Secretary of
State, Jeffrey Mangan, in his
official capacity as Montana
Commissioner of Political
Practices,

Defendants.

CV-21-119-M-DWM

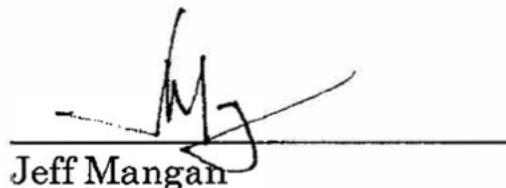
**AFFIDAVIT OF
JEFF MANGAN**

I, Jeff Mangan, being first duly sworn upon his oath, state as follows based on my personal knowledge:

1. I am the Montana Commissioner of Political Practices.
2. On October 14, 2021, Plaintiffs' summons and a copy of the complaint were delivered via process server to the Commissioner of Political Practices office. I received the summons and complaint.
3. Exhibit 2 is a true and accurate copy of the summons and complaint as served on the Commissioner of Political Practices in this matter on October 14, 2021.

I declare under penalty of perjury that the foregoing is true and correct.

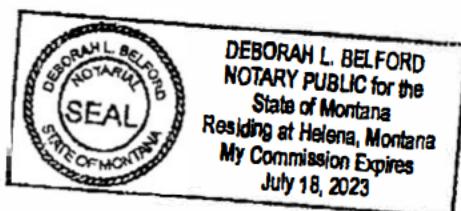
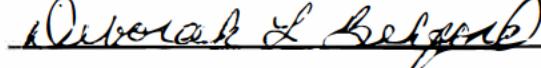
Dated: 11-3-2021



Jeff Mangan

Subscribed and sworn to before me this 3 day of November, 2021.
by Jeff Mangan, State of Montana / Lewis & Clark County.

(NOTARIAL SEAL)



Printed Name: Deborah L Belford

CERTIFICATE OF SERVICE

I hereby certify that on this date, an accurate copy of the foregoing document was served electronically through the Court's CM/ECF system on registered counsel.

Dated: November 3, 2021

/s/ Brent Mead

BRENT MEAD

Exhibit 2

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**Motion for Pro Hac Vice Forthcoming*

UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA
MISSOULA DIVISION

Montana Democratic Party, Montanans for
Terror, Macroe Patriotti,

Plaintiffs,

Case No. CV-21-119-M-DWM

v.
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Montana Secretary of State, Jeffrey
Mangan, in his official capacity as Montana
Commissioner of Political Practices,

Defendants.

THE DEFENDANT Jeffrey Mangan, in his official capacity as Montana Commissioner of Political
Practices

PLEASE TAKE NOTICE:

A lawsuit has been filed against you. Within 21 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address is:

Peter Michael Meloy,
MELOY LAW FIRM,
P.O. Box 1241,
Helena, MT 59624

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Dated: 10/12/21

Chief Clerk or Deputy Clerk of Court

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Motion for Pro Hac Vice Forthcoming*

UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA
MISSOULA DIVISION

Montana Democratic Party, Montanans for
Tester, Macee Paititti,

Plaintiffs,

Case No.

vs.
Christen Jacobson, in her official capacity as
Montana Secretary of State, Jeffrey
Mangan, in his official capacity as Montana
Commissioner of Political Practices,

Montanans

PLAINTIFF'S COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff's MONTANA DEMOCRATIC PARTY, MONTANANS FOR

TRAVIS COLE and CHRISTIE PATRITTI, by and through their undersigned counsel, file this COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF against Debra L. J. Christensen, in her official capacity as the Montana Secretary of State (“the ‘Secretary”), and JEFFREY MANGAN, in his official capacity as the Montana Commissioner of Political Practices (the “Commissioner”), and allege as follows:

NATURE OF THE CASE

The 2020 general election saw Montana’s highest voter turnout rates in nearly 100 years. Montanans voted in record numbers, with over 80 percent of registered voters casting a ballot.

(1) This record voter participation was propelled by a surge in turnout among Montana’s young voters. In 2020, the number of Montanans between the age of 18 and 29 who cast a ballot increased nearly 40 percent from the 2016 presidential election.

(2) Turnout among young voters in Montana has been rapidly on the rise over the past few years. During the 2018 midterm elections, 42 percent of young voters cast a ballot, up from less than 18 percent of young voters in the 2014 midterm elections.

(3) Rather than celebrate this laudable increase in youth participation, the Montana Legislature chose instead to pass a suite of voter-suppression laws targeting

young voters and limiting their access to the franchise. Among the bills passed during the state's most recent legislative session were measures that eliminated Montana's long-standing tradition of election day voter registration (House Bill 176) and that prohibited the use of student ID cards as a form of voter identification (Senate Bill

319).⁷ This suit challenges another one of those bills, Senate Bill 319 ("SB 319"), which imposes arbitrary, vague, and onerous restrictions on the rights of college students to conduct political organizing efforts, engage in core political advocacy, and ultimately participate fully in the political process.

Section 2(a) of SB 319 prohibits any political committee—whether it is a student organization or not—from directing, coordinating, managing, or conducting any campaign identification efforts, voter registration drives, signature gathering, canvassing, ballot petition efforts, or voter turnout efforts for a federal, state, local, or tribal election in a residence hall, dining facility, or athletic facility operated by a public postsecondary institution." SB 319, 67th Leg., Reg. Sess. § 21(1) (hereinafter the "Student Organizing Ban").

The Student Organizing Ban is a surgical attack on the successful organizing power and "natural political" power of Montana's youngest voters. By targeting only educational residence halls, dining facilities, and athletic facilities, the

from participating fully in the political process. Not only does the Student Organizing Ban prevent political committees from reaching college students in the areas of education where their efforts are likely to be the most fruitful, it also prohibits college students from engaging in core political speech—including organizing events and activities—without any political committee.

Plaintiffs bring this action challenging the Student Organizing Ban as unconstitutional under the First, Fourteenth, and Twenty-Sixth Amendments.¹

JURISDICTION AND VENUE

Plaintiffs bring this action under 42 U.S.C. §§ 1983 and 1988 to redress the constitutional violations of state and of rights secured by the United States Constitution.

The Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1333 because the matters in controversy arise under federal law.

¹ Senate Bill 319 is also subject to a challenge in Montana state court, where plaintiffs have challenged several aspects of the bill, including the Student Organizing Ban, under both the First Amendment and multiple provisions of the Montana Constitution. See Compl., *Forward Mont. et al. v. Montana et. al.*, Case No. ADV-2021-611 (Mont. Dist. Ct. June 1, 2021). In that proceeding, the court granted a preliminary injunction enjoining the enforcement of Senate Bill 319 for the pendency of that litigation. See Prelim. Inj. Order, *Forward Mont. et al. v. Montana et. al.*, Case No. ADV-2021-611 (Mont. Dist. Ct. July 1, 2021). That case is still pending but there has been no final resolution regarding the enforceability or constitutionality of the Student Organizing Ban. Not only are Plaintiffs here not parties to that proceeding, they raise distinct and additional claims for injuries to their First Amendment rights entitling them to relief from this Court.

the Constitution and Laws of the United States and involve the assertion of constitutional and/or state law, of rights under the U.S. Constitution.

The Court has personal jurisdiction over Defendants, who are sued in their individual capacities.

The Court has subject-matter jurisdiction pursuant to 28 U.S.C. § 1331 because, *i.e.*, Plaintiff's claims all relate to the events that gave rise to Plaintiffs' claims occurred and/or Plaintiff's asserted claims.

The Court has the authority to enter declaratory and injunctive relief under 42 U.S.C. §§ 1983, 1985, 1986, 57 and 65 and 28 U.S.C. §§ 2201 and 2202.

PARTIES

MONTANA DEMOCRATIC PARTY ("MDP") is a political party registered with the State of Montana. § 13-38-101 *et seq.* It meets the broad criteria for "political party" filing under SB 319's restrictions. See Mt. C.R. 13-38-101(1)(a). As a third Democratic Party candidates in local, county, state, and national elections in the state of Montana, MDP works to achieve its goals by educating, mobilizing, assisting, and turning out voters through various means. These activities include supporting Democratic Party candidates in local, national, and international elections through fundraising and organizing; protecting voting rights, ensuring and ensuring that all voters have a meaningful opportunity to vote in Montana. MDP has thousands of members and

constituencies from across the state, including college students in Montana and Montanans who regularly support candidates affiliated with the Democratic Party and will register and vote in future elections. MDP has expended millions of dollars to coordinate and mobilize voters to support candidates up and down the ballot who reflect the values of the Democratic Party in Montana. MDP again intends to make significant contributions to open Democratic candidates in the 2022 election and in the 2024 election.

The actions of MDP and Miller have been significant efforts to register and mobilize young voters on college campuses, including by retaining staff whose responsibilities specifically include campus organizing. The Student Organizing Ban clearly limits MDP in three ways. First, it prohibits MDP from engaging in core political activities protected by the First Amendment, targeting MDP's capacity to engage in speech or advocacy designed to influence the voters in an election. Second, it causes significant injury by frustrating MDP's mission and efforts to register and mobilize young voters by suppressing the access of young voters, who are most likely to support Democratic candidates, to the franchise. Third, due to the Student Organizing Ban, it prohibits MDP from registering and mobilizing young voters on college and university campuses such as dorms, dining halls, and classrooms. While MDP will inevitably have to dedicate more staff to voter registration and mobilization on campus in order to reach the same number of

potential voters, diverting both staff and monetary resources away from other mission-related efforts.

(c) MFP's members—including thousands of college students in Montana, among others—object to the Student Organizing Ban as it violates their First Amendment freedoms of speech and assembly by specifically targeting the right of college students to vote on the ballot. This filing-in violation of the Twenty-Sixth Amendment.

Montanans for Tester for Montanans for Tester is the principal campaign committee of Senator Jon Tester. It meets the broad definition of a “political committee” under § 102(M)'s regulations. See Mont. Code Ann. § 13-1-102(1)(a). It exists to support the election and re-election of Jon Tester to the United States Senate. In furtherance of this mission, Montanans for Tester expends money to register, mobilize, assist, and turn out voters throughout the state, including on college campuses.

The Student Organizing Ban injures Montanans for Tester in three ways. First, the SORB prevents Senator Tester from engaging in core political speech protected by the First Amendment, targeting Montanans for Tester's core political beliefs, which are specifically designed to influence the voters in an election. Second, the SORB causes the injury by frustrating Montanans for Tester's political purpose of electing Senator Tester to the United States Senate in Montana by supporting the turnout of young voters, who tend to tend to support Democratic

candidates to the franchise. Third, due to the Student Organizing Ban—which prohibits Montanans for Tester from registering and mobilizing voters in high-traffic areas of college and university campuses such as dorms, dining halls, and athletic facilities—advocations for Tester will inevitably have to dedicate more staff to voter registration and mobilization on campus in order to reach the same number of potential voters, diverting both staff and monetary resources away from other voter protection efforts.

Montanans for Tester’s efforts to register young voters on college campuses are a particularly poignant example of the inevitable impact of the Student Organizing Ban. Refer to the 2018 election, Montanans for Tester—
which was founded in 2017—registered over 2,000 new voters on college campuses through a “College Outreach” program that targeted high-traffic campus areas such as dorms and dining halls. A proposed amendment to § 203(a) would make such efforts illegal.

Elizabeth Patritti, 24, of Missoula, MT, is a resident of, and registered voter in, Lincoln, Montana. She is 19 years old and a freshman at the University of Montana. Ms. Patritti has lived in Missoula and was a student intern for the Montana Democratic Party during the 2018 election. As part of her responsibilities as an intern, she worked with the campus chapter of Montana Technological University in Missoula to register students to vote, including in facilities such as dining halls and dorms. In addition, Ms. Patritti would seek to conduct the

same activities again in coordination with a political committee such as MDP or Montanaans for Tesler. These activities would now be prohibited by the Student Organizing Ban. Injuring Ms. Paritti by restricting her ability to engage in core political expression¹ protected by the First Amendment. The Student Organizing Ban is discriminatory, abrogating her right to vote due to her age in violation of the First Amendment.

Defendant DEBORAH JACOBSON is the Secretary of State of Montana and Plaintiff's Plaintiff in her official capacity. The Secretary is Montana's chief election officer, holding title with the authority "to obtain and maintain copies of all records relating to the election, and interpretation of the election laws other than those contained in [chapter 35, section 37]" Mont Code Ann. § 13-1-201.

Defendant JEFFREY MANGAN is the Montana Commissioner of Financial Regulation and Plaintiff in his official capacity. The Commissioner is responsible for investigating all of the alleged violations of the election laws contained in [chapter 35 of this title or [chapter 37] and in conjunction with the Office of the Attorney General "for enforcing these election laws." Mont. Code Ann. § 13-37-221. The Office, among other things, the regulation of campaign finance, Mont. Code. §§ 13-37-229, and the regulation of election procedures and standards and rules. §§ 13-35-225.

STATEMENTS OF FACTS AND LAW

25. For years, Montana has been a leader in administering secure and accessible elections. The record-breaking turnout that Montana saw in the 2020 general election—especially among young voters—is evidence that when it is easier to vote, more people do. And the increased participation of young voters, in particular, was striking: over 40% more Montanans between the age of 18 and 29 cast their ballots compared to the 2016 presidential election. In response, the Montana Legislature sought to dismantle a number of the procedures and practices that made it easy for young Montanans to participate in the political process.

26. The Montana Legislature did not stop at voting procedures. In the wake of the successful organizing and mobilization efforts by a number of organizations like Young Voice and Montanans for Tester, the Legislature passed the Senate’s budget bill with an intent to hamstring political committees aimed at protecting young people and college students across Montana.

27. The Legislature used a series of rare procedural maneuvers to transform Senator Greg Vozz’s originally bipartisan campaign finance bill to one with profound impacts on the most marginalized of Montana’s college students.

28. Senator Greg Vozz introduced SB 319 on February 19, 2019, during the 2019 legislative session. The substance of the bill related entirely to

campaign finance regulations—specifically, the use of and reporting requirements for joint fundraising committees.

27. On the day Senator Herz introduced the bill, it was referred to the Senate Committee on Administration. The bill received a hearing on February 26, 2021, a vote out of the State Administration Committee on March 1, 2021, and passed out of the Senate on March 2, 2021.

28. When SB 319 reached the Montana House of Representatives, it was referred to the House State Administration Committee. The bill received a hearing in the House on March 1, 2021, passed out of the State Administration Committee on March 2, 2021, and was returned to the Senate—as amended on March 2, 2021.

29. After the Senate passed SB 319 for more than two weeks, the Senate Rules Committee held hearings on April 23, 2021.

30. Under the Montana Legislature's general practice to resolve any conflict between the two chambers of a bill using a conference committee, each chamber sends three members to the House and three members of the Senate. The conference committee is limited to accepting, rejecting, or amending the disputed provisions.

31. If the conference committee fails to reconcile the disputed amendments, either the House or the Senate committee can convene to salvage the bill.

(2) A free conference committee has a broader mandate than a typical conference committee and is empowered to consider and adopt any amendment within the scope and title of the bill, even if such an amendment was not included in either Chamber's version of the original bill.

(3) In an unusual procedural move, the Legislature never appointed a conference committee to resolve the discrepancies between the House and Senate version of SF 319. Instead, in the last days of the legislative session, the Legislature said nothing at all about a free conference committee.

(4) On April 11, 2021, the free conference committee convened to consider proposed changes to SB 319.

In a single, closed-door meeting that lasted just under eighteen minutes, the free conference committee adopted four amendments that fundamentally altered the scope and substance of SB 319.

(5) The free conference committee did not seek or allow public comment on its amendments, nor were they subject to the scrutiny of the relevant House or Senate standing committees.

(6) In addition to the partial nature of these amendments, the Student Organizing Bill of Rights (A.B. 319, § 11, Subdivision 21 of SB 319), prohibits political committees from directly supporting, funding, or collecting any "voter identification efforts, voter registration efforts, signature collection efforts, ballot collection efforts, or

voter turnout efforts for a federal, state, local, or school election inside a residence hall, dining facility, or athletic facility operated by a public postsecondary institution.” 34 CFR § 21(1).

(b) The Student Organizing Ban is designed to limit the ability of newly-enrolled college students to fully exercise the franchise by limiting the information available to them and by stopping them from engaging in constitutionally protected political speech on college campuses.

The author of the Student Organizing Ban, State Senator Steve Fine, didn’t think there was “no problem if kids vote,” but he wanted to protect them “from being exploited” by “really activist causes.”

Even if it did serve its problematic purpose, the Student Organizing Ban will chill constitutionally protected speech far outside the activities specifically covered by the ban.

The vagueness of the Student Organizing Ban fails to provide any guidance as to what a “political mobilization effort” means. The possibilities cover a range of constitutionally protected activity, from commonplace election-related undertakings like voter registration and campaign advocacy, to information about how to acquire

student organization to cast a ballot, to conversations about candidates, issues, and the voter-supported or opposed by a particular political committee.

Second, the Student Organizing Ban makes clear through the Student Organizing Ban purports to allow individual student organizations provided the activity is undertaken “at [an] individual’s educational institution.” Mont. Code Ann. § 33-7-103(1)(g)(2)(B). Neither SB 319 nor the Montana Election Code clearly clarify what it means to undertake such activities at an “individual’s educational institution.”

Finally, the Student Organizing Ban would prohibit any college student who lives off campus or regularly eats in a dining hall from undertaking or participating in any political activity outside of their dormitory. The Student Organizing Ban if that student undertakes any political activity with any political committee. Put another way, the Student Organizing Ban would students from engaging in constitutionally protected activities and many students won’t be in the place they call home.

Third, the broad definition of a “political committee” encompasses certain student organizations and self rights organizations, see Mont. Code Ann. § 13-13-101(1)(a), (b) and (c). The Student Organizing Ban will significantly hamper student-organizing efforts and student activism.

Fourth, the Student Organizing Ban does not exempt student groups who meet the definition of a “political committee” from the rules and regulations governing such organizations. Instead, the organization becomes an “incidental political

conducting it makes a single expenditure supporting or opposing a candidate or ballot initiative, the Student Organizing Ban will have significant consequences for a college’s political speech and chosen to take a stand on the most important political and substantive issues of the day. Mo. Code Ann. § 13-1-101(23).

Second, the Student Organizing Ban creates a chilling effect. The educational chilling is particularly pronounced because of the way the law is written. The law makes clear that it is illegal to accompany a violation of the Student Organizing Ban. Any person who commits a violation of the Student Organizing Ban is subject to a civil fine of up to \$10,000 for each “violation” and “[e]ach day of a continuing violation.” 28 U.S.C. § 2201(b) and C.R.C.M. 28.319 § 21(4).

Third, the Student Organizing Ban violates the First Amendment’s core principle of avoiding any suppressing political speech. And, because it does so by punishing speech, it is an attempt to suppress the voting power of college students. Finally, the ban also violates the Twenty Sixth Amendment.

PRAYER FOR RELIEF

COUNT I

First Amendment and Fourteenth Amendment
U.S. Const. Amend. I and XEV, 42 U.S.C. § 1983, 28 U.S.C. § 2201, 28 U.S.C. § 2202
Restriction on Core Political Speech

Plaintiffs, the LPB, its campaign for Texas, and Macce Parritti reallege and incorporate by reference paragraphs 1 through 49 as though fully set forth herein.

Montana. This amendment, by way of the Fourteenth Amendment, bars Montana from abridging the right to free expression. The right is at its most protected when it concerns politics, as it is political, serving “to ensure that the individual citizen has a meaningful opportunity to participate in and contribute to our republican system of self-government.” *Ward v. City of Sacramento*, 457 U.S. 596, 604 (1982).

The First Amendment’s core, I argue, lies in the First Amendment at its apogee. Montanans have a constitutional right to “participate in and contribute to” our system of government by forming “political committees” like MDP and Montanans for Montanans. Montanans may “[c]onduct[ing], manag[ing], or conduct[ing] any voter registration, election, referendum, petition, drives, signature collection efforts, ballot initiatives, affidavits of voters, and off-site for a federal, state, local, or school election including assistance with, diddling, or styling, or athletic facility operated by” the Montana School Board. *Montana School Board v. MDP*, Patriotic Association with organizations seeking to influence the election of Montana in undertaking these expressive acts.

Montanans have a constitutional right to “know ‘the mechanics of the electoral process’ and thus ‘the regulation of pure speech,’” targeting “only those” communications “that are designed to influence the voters in an election.” *Burns v. Thurston County*, 511 U.S. 324, 345 (1995). And it does so on condition that the state keep its political system open to free and robust expression. See

Whitford v. Abbott, 454 U.S. 253, 267 n.5 (1981) (“The college classroom with its surrounding environs is peculiarly ‘the marketplace of ideas.’”).

The Plaintiff Organizing Ban singles out the voting-related expression of First Amendment and those who work with them—for regulation. Voter registration drives and ballot signature collection efforts constitute “the type of political activity that furthers meaningful political change that is appropriately protected by the First Amendment.” *League Grant*, 486 U.S. 414, 421-22 (1988).
Counsel for Plaintiff, Mr. MDP and Montanans for Tester express the
idea that they will register young voters with whom they share common goals,
such as climate change. The voter is therefore faced not “with an ordinary
election law that punishes and targets and restricts political expression.

Montana’s College Voter Registration Act

Montana’s voter registration law precludes these activities barred by Montana to
encourage and facilitate voting and to facilitate signature collection for ballot
initiatives and to recruit candidates with whom they share a common goal. For
example, the Plaintiff, MDP, and Montanans for Tester, substantial resources in efforts
to recruit young voters from Montana’s college campuses. As a result of these
efforts, the Plaintiff has recruited thousands of young college students whose First
Amendment rights are violated. Similarly, Montanans for Tester has similarly
targeted college students at different college campuses, registering 3,000 voters on

conducting voter registration drives in the lead up to the 2018 election. And Plaintiff Macee Peacock has dedicated her time to assist in these efforts on Montana’s campuses and throughout the state.

The Supreme Court and the lower federal courts have explained that the First Amendment protects nonessential political speech. See, e.g., *Meyer*, 486 U.S. at 421 (“[A]ny discussion with ‘potential signatories’ constitute core political speech.”); *id.* at 422 (“[T]o effectuate [a] decision will ‘persuad[e]’ them that the matter is important enough to warrant publicity and debate that would attend its consideration by the public.”); *Student Voice Project v. Blackwell*, 455 F. Supp. 2d 694, 706 (N.D. Ga. 2007). The purpose of voter registration drives is obvious: they encourage young people’s participation in the political process through voting is likely to be “nonessential” speech.

The Student Code of Conduct, regulating Pau, therefore, restricts Plaintiffs from discussing voter registration topics core to First Amendment protections. This burden of restrictions argues constitutional infringement. But the Student Code of Conduct should also be struck by its effect on young voters.

Second, the law restricts young college students (a population of newly-minted voters) from participating in voter outreach and the political speech that advances their right to vote. Voter outreach is a core-related expression where they are most easily engaged and “activated.” It vaguely describes the people, programs, and

policies, it fails to speak, it chills these same students from speaking on political issues as it did today as they would were the law not in place.

The majority of these burdens, the Student Organizing Ban is subject to “strict scrutiny” and will only be upheld if it is narrowly tailored to serve a compelling state interest. *Id.* at 514 U.S. at 347.

Plaintiffs have provided such scrutiny.

First, Plaintiffs’ burden does not even a legitimate interest—let alone a compelling one. The proposed regulations imposed restrictions on Plaintiffs’ interactions with speakers who did not share their views, and least because of the roughshod way the SORB was implemented, see *infra* ²⁵⁻³⁷.

Second, the SORB itself admitted that its purpose was to chill speech that did not align with its efforts to keep students from being “exploited” by “radical” speakers. Plaintiffs’ briefs also fully admitted that through the SORB, the government “frightened” (in its words) that the government feared was too effective. *See, e.g., Doe v. Babbitt*, 564 U.S. 552, 580 (2011) (“The State has been compelled to accept a record of opposition that it found too persuasive. At the same time, it has not itself prohibited those speakers whose messages are in accord with its own views. This the State cannot do.”). This makes it a content-based regulation that is categorically unconstitutional. See, e.g., *Reed v. Town of Gilbert*, 576 U.S. 154, 171 (2015) (“[I]t is given that a law is facially content neutral,

it will also be deemed to be an unconstitutional content-based restriction if (1) it “targets” speech without reference to the content of the regulated speech,” or (2) it is “targeted” by the government because of disagreement with the message [the speech].”¹⁷ (quotation marks omitted); *Ward v. Rock Against Racism*, 491 U.S. 781, 797 (1989) (explaining that when determining whether a provision discriminates on the basis of content, courts must consider “whether the regulation has adopted a regulation of speech because of its content or is a law of general applicability (emphasis added); see also *R.A.V. v. City of St. Paul*, 505 U.S. 377, 391 (1992) (holding that the mere “possibility that the [law] may have been applied to suppress the expression of particular ideas . . . would not suffice to render the statute facially discriminatory”); *remittive* (“valid”)).

If the University’s asserted interests, they will not be sufficient to justify the violation of Plaintiff’s right to free expression.

Finally, Plaintiff is entitled to injunctive and declaratory relief to prevent the University from enacting and implementing the Student Organizing Ban to further infringe on Plaintiff’s rights guaranteed by the First Amendment.

COUNT II

Twenty-Sixth Amendment

U.S. CONST. AMEND XXVI, 42 U.S.C. § 1983, 28 U.S.C. § 2201, 28 U.S.C. § 2282

Violation or Abridgement of the Right to Vote on Account of Age

Plaintiff incorporates by reference paragraphs 1 through 49 immediately preceding and herein.

The Twenty-Sixth Amendment to the U.S. Constitution provides in relevant part: "The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by . . . any State on account of age." The Twenty-Sixth Amendment's intent to empower voting by our youths bears on the right to vote. Voting rights of the voting, through the elimination of discriminatory laws, and "that family if vigor and idealism could be brought into the political process and into our newly constituted institutions." *Worden v. Pugh*, 100 U.S. 687, 693 (1881); *see also* 242 N.Y. Sup. 1972.

The Twenty-Sixth Amendment guarantees young, qualified voters a significant role in the electoral process. As such, "not only does discrimination," it has "particular impact upon the young, who make up approximately 50 per cent of all who vote." *Wingren v. Holway*, 482 F.2d 95, 101 (1st Cir. 1973) (citations omitted); *see also* *Wingren v. Holway*, 482 F.2d 95, 101 (1st Cir. 1973) (citations omitted).

and, as a result, laws that have the purpose, even in part, of denying or abridging the right to vote on account of age are unconstitutional. *League of Women Voters v. Decker*, 214 F. Supp. 3d 1215, 1222-23 (N.D. Fla. 2018) (holding plaintiff was substantially likely to succeed on merits of Twenty-Sixth Amendment claim challenging no-restrictive state guidance “unexplainable on grounds of history and tradition”); *Project-Common Cause v. Anderson*, 495 P.2d 220, 222 (Colo. App. 1971) (holding, without “any ‘history and reason’ that the Twenty-Sixth Amendment did not ‘do its part’ denying the right to vote to anyone eighteen years old, that provision applies to the entire process involving the exercise of the right to vote.”).

The Student Organizing Ban targets Monnet’s college-age voters with speech restrictions that prohibit them from speaking in college residence halls, dining facilities, and dormitories—but no other type of public building—in a manner that would allow political committees from reaching young, college-age voters on their college campuses. In this way, the Student Organizing Ban discriminates on the basis of age in violation of the Twenty-Sixth Amendment.

For these reasons, relief is needed to prevent the serious and discriminatory impact of the Student Organizing Ban on Plaintiffs’ fundamental

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment:

- a) declaring, under the authority granted to this Court by 28 U.S.C. § 2201, that the Student Organizing Ban violates the First, Fourteenth, and Twenty-Sixth Amendments to the United States Constitution;
- b) enjoining the Secretary and Commissioner of Political Practices, under the authority granted to this Court by 28 U.S.C. § 2202, from enforcing the Student Organizing Ban;
- c) awarding Plaintiffs their costs, disbursements, and reasonable attorneys' fees incurred in bringing this action pursuant to 42 U.S.C. § 1988 and other applicable laws; and
- d) granting such other and further relief as the Court deems just and proper.

Dated: October 12, 2021

Respectfully submitted,

/s/ Peter Michael Meloy

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**Motion for Pro Hac Vice Fritchcomings
Counts for Plaintiff's*